

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
DICKMAN LUMBER COMPANY,

Appellant,

vs.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 479

FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

THIS MATTER being an appeal from a notice of civil penalty of \$100.00 for an alleged smoke emission violation having come on regularly for hearing before the Pollution Control Hearings Board on the 7th day of February, 1974, at Seattle, Washington; and appellant Dickman Lumber Company appearing through Naylor B. Middleton, its Secretary-Treasurer, and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith D. McGoffin; and Board members present at the hearing being Walt Woodward and Mary Ellen McCaffree; and the Board having considered the sworn testimony, exhibits, records and files herein and

1 arguments of counsel and having entered on the 6th day of March, 1974, its  
2 proposed Findings of Fact, Conclusions of Law and Order; and the Board  
3 having served said proposed Findings, Conclusions and Order upon all  
4 parties herein by certified mail, return receipt requested and twenty  
5 days having elapsed from said service; and

6 The Board having received no exceptions to said proposed Findings,  
7 Conclusions and Order; and the Board being fully advised in the premises;  
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
10 Findings of Fact, Conclusions of Law and Order, dated the 6th day of  
11 March, 1974, and incorporated by this reference herein and attached  
12 hereto as Exhibit A, are adopted and hereby entered as the Board's  
13 Final Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington this 5<sup>th</sup> day of April, 1974.

15 POLLUTION CONTROL HEARINGS BOARD

16 Walt Woodward  
17 WALT WOODWARD, Chairman

18 Mary Ellen McCaffree  
19 MARY ELLEN MCCAFFREE, Member

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27 FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

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Mr. Keith D. McGoffin  
Burkey, Marsico, Rovai  
& McGoffin  
818 South Yakima Avenue  
Tacoma, Washington 98405

Mr. Naylor B. Middleton  
Secretary-Treasurer  
Dickman Lumber Company  
P. O. Box 1255  
Tacoma, Washington 98401

Puget Sound Air Pollution  
Control Agency  
410 West Harrison Street  
Seattle, Washington 98119

the foregoing being the last known post office addresses of the above-named parties. I further certify that proper postage had been affixed to the envelopes deposited in the U. S. mail.

Dolores Osland  
DOLORIES OSLAND, Clerk  
POLLUTION CONTROL HEARINGS BOARD

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STATE OF WASHINGTON

IN THE MATTER OF )  
DICKMAN LUMBER COMPANY, )  
Appellant, )  
vs. )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

PCHE No. 479

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

A formal hearing on the appeal of the Dickman Lumber Company to a notice of civil penalty of \$100.00 for an alleged smoke emission violation of Puget Sound Air Pollution Control Agency's Regulation I, came before two members of the Pollution Control Hearings Board (Walt Woodward, presiding officer, and Mary Ellen McCaffree) in the Washington Commerce Building, Seattle, Washington, at 3:00 p.m., February 7, 1974.

Appellant appeared through Naylor B. Middleton, Secretary-Treasurer, Dickman Lumber Co.; respondent appeared through its

1 counsel, Keith D. McGoffin. Eugene Barker, Olympic court reporter,  
2 recorded the proceedings.

3 Witnesses were sworn and testified. Exhibits were admitted.  
4 Arguments were made.

5 From testimony heard, exhibits examined and arguments considered,  
6 the Pollution Control Hearings Board makes these

7 FINDINGS OF FACT

8 I.

9 The Dickman Lumber Company (hereinafter appellant), 2423  
10 Ruston Way, Tacoma, Washington, is one of twenty-six original saw  
11 mills in Tacoma. It manufactures structural lumber products which  
12 are sold to its customers around the world. It processes approximately  
13 two million board feet of logs cut into lumber each month. Its  
14 Birchfield Dutch oven wood waste burning boilers had been installed  
15 in 1922.

16 II.

17 From April 16, 1970, to September 1, 1972, the following notices  
18 of violations were received by the appellant from the Puget Sound Air  
19 Pollution Control Agency (hereinafter respondent):

20 April 16, 1970 - Notice of Violation No. 2558

21 November 2, 1971 - Notice of Violation No. 3073

22 August 2, 1971 - Notice of Violation No. 4179

23 September 13, 1971 - Notice of Violation No. 4230

24 July 19, 1972 - Notice of Violation No. 5358

25 September 1, 1972 - Notice of Violation No. 5438

26 The first five notices were in violation of Section 9.03 of respondent's

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

1 Regulation I and the sixth notice was in violation of Section 9.09 of  
2 respondent's Regulation I. The appellant answered each notice of  
3 violation and there were no civil penalties received by the appellant  
4 in connection with any of the above notice of violation.

5 III.

6 In November, 1972, the appellant hired a consulting engineering  
7 firm to make recommendations as to the changes required in its  
8 equipment to enable it to cease violations of Regulation I of the  
9 Respondent. The appellant ultimately decided that the only course  
10 of action for it to pursue was to retire its old wood waste  
11 burning boilers and to replace them with new boilers. A compliance  
12 schedule was worked out with the respondent with a completion date  
13 of January 10, 1974 set for the appellant. However, the appellant  
14 informed the respondent by letter dated September 21, 1973 that  
15 the compliance schedule had been completed and their old boilers were  
16 now retired. At a cost of \$123,000.00 the appellant had installed  
17 all new electrical equipment.

18 IV.

19 On October 15, 1973, the appellant started to burn in its old  
20 burners, the waste wood and sawdust that had accumulated during the  
21 changeover of boilers. It had not anticipated any smoke resulting  
22 from this operation. However, due to unforeseen circumstances there  
23 was smoke emitted into the atmosphere, and at about 1:30 p.m. an  
24 inspector on the respondent's staff observed that there was emitted  
25 from the stacks at the appellant's mill grey white smoke in the  
26 shade of 50 to 90 percent opacity for at least six consecutive

1 minutes. After observing the above described emission, he issued  
2 Notice of Violation No. 8234 to appellant. Subsequently, and in  
3 connection therewith, appellant was served with Notice of Civil  
4 Penalty No. 1218 in the amount of \$100.00, being two-fifths of the  
5 maximum amount which respondent may invoke for a violation of its  
6 Regulation I. That penalty is the subject of this appeal.

7 V.

8 Section 9.03 of respondent's Regulation I makes it unlawful to  
9 cause or allow an air contaminant emission for more than three  
10 minutes in any one hour of a shade darker than a 40% density.

11 VI.

12 On October 17, 1973, the respondent notified the appellant by  
13 letter that the discontinued hogged fuel boiler could not lawfully  
14 be used as an incinerator. At which time the appellant shut down  
15 this operation and disposed of the waste wood by other means. It  
16 was the testimony of the appellant that the sawdust resulting from  
17 the changeover operation had not as yet been disposed of.

18 From these findings, the Pollution Control Hearings Board comes  
19 to these

20 CONCLUSIONS OF LAW

21 I.

22 Appellant was in violation of respondent's Regulation I as cited  
23 in Notice of Violation No. 8234.

24 II.

25 Notice of Penalty No. 1218 is reasonable, but in view of the  
26 tremendous effort over a number of years that has been demonstrated

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW,

1 by the appellant and the good faith shown, further clemency is  
2 indicated.

3 Therefore, the Pollution Control Hearings Board issues this  
4 ORDER

5 The appeal is denied, but the civil penalty of \$100.00 is being  
6 suspended on condition of no more similar violation for a period of  
7 six months from the date this Order becomes final.

8 DONE at Lacey, Washington, this 6th day of March, 1974.

9 POLLUTION CONTROL HEARINGS BOARD

10  
11 Walt Woodward  
12 WALT WOODWARD, Chairman

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14 Mary Ellen McCaffrey  
15 MARY ELLEN McCAFFREE, Member

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26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER